



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

SMC
Docket No: 06170-99
18 November 1999

SSGT [REDACTED] SMCR RET
[REDACTED]

Dear Staff Sergeant [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 10 November 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps Performance Evaluation Review Board (PERB), dated 10 September 1999, a copy of which is attached, and your undated rebuttal.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the report of the PERB. They were unable to find your placement on weight control was a punishment for your having had a nervous breakdown. They noted the fitness report rebuttal of record, reflecting your signature, does read as indicated in paragraph 3 of the PERB report. While the choice of wording may not be yours, the Board was unable to find the rebuttal does not fairly and accurately represent your own position concerning the contested fitness report. Since the Board found no defect in your performance record, they had no basis to correct your record to show you were promoted to gunnery sergeant effective 1 January 1997. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is

important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

6170-98

IN REPLY REFER TO:
1610
MMER/PERB
SEP 10 1999

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF STAFF
SERGEANT [REDACTED] SMC (RET)

Ref: (a) SSgt [REDACTED] DD Form 149 of 5 May 99
(b) MCO P1610.7C w/Ch 1

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 7 September 1999 to consider Staff Sergeant [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 860401 to 861231 (CH) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner indicates that in December 1986 he suffered a nervous breakdown and when he returned to duty in January 1987 he was placed on weight control. In his argument, the petitioner infers his assignment to this program was unfairly included in the fitness report.

3. In its proceedings, the PERB concluded that the report is both administratively correct and procedurally complete as written and filed. While the Board certainly agrees with the petitioner's statement concerning his overall faithful service, they must also point out that the report at issue reflects information based on uncontroverted matter of fact. The petitioner himself acknowledged such in his rebuttal to the report. To wit: "These fitness report deficiencies are the direct result of my egotism and narcissism, my failure to take my own advice." Notwithstanding his own statement, the Board finds nothing to show that the report is somehow inaccurate or unfair.

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness report should remain a part of Staff Sergeant [REDACTED] official military record.

(3) P643

6170 99

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF STAFF
SERGEANT [REDACTED] USMC (RET)

5. The case is forwarded for final action.

[REDACTED]

Chairperson, Performance
Evaluation Review Board
Personnel Management Division
Manpower and Reserve Affairs
Department
By direction of the Commandant
of the Marine Corps